

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WISCONSIN

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OPERATIVE PLASTERERS AND CEMENT  
MASONS LOCAL 599 ,

Plaintiff,

v.

PREFERRED CONCRETE & EXCAVATING,  
INC.,

Defendant.

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ORDER

14-cv-426-wmc

Plaintiff filed a complaint on June 8, 2014, service was executed on June 17, 2014, with an answer due on July 8, 2014. (Dkt. ##1, 3.) After receiving no answer, nor any motion for default from plaintiff, the court flagged its concerns with the lack of progress in this action, and Magistrate Judge Crocker held a telephonic status conference on September 23, 2014, at which plaintiff appeared by counsel. (Dkt. #4.) During the status conference, plaintiff indicated that it intended to file an amended complaint to correct some factual errors. (*Id.*) Judge Crocker warned the plaintiff to file and serve the amended complaint promptly, or risk dismissal of this case for failure to prosecute. (*Id.*)

Plaintiff filed an amended complaint three days later on September 26, 2014 and a summons was issued on September 29, 2014. (Dkt. ##5, 6.) Having received no proof of service of the amended complaint, the court ordered plaintiff's counsel to promptly file such proof of service. Instead, plaintiff's counsel responded in a letter to the court dated November 14, 2014, that it was having trouble serving the amended complaint, and requested ten additional days, until November 24, 2014, to do so, or

indicated that it “will provide the Court with an update if service still has not been made as of November 24, 2014.” (Dkt. #7.)

As of today, December 4, 2014, plaintiff has *still* failed to file proof of service of process or otherwise update the court on the status of serving the amended complaint as promised. Accordingly,

ORDER

IT IS ORDERED that this action is DISMISSED without prejudice due to plaintiff’s failure to prosecute, and the clerk of court is directed to close this case.

Entered this 4th day of December, 2014.

BY THE COURT:

/s/

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WILLIAM M. CONLEY  
District Judge